

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Ho	Team: Squad #3	CCRB Case #: 201501960	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/19/2015 4:45 PM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 7/19/2016	EO SOL 7/19/2016	
Date/Time CV Reported Wed, 03/18/2015 11:48 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/18/2015 11:48 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 John Mchugh	00581	948163	NARCBBN
2. SGT Eric Francis	01705	933784	NARCBBN
3. DT3 Steve Lafortune	02570	928609	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 John Mchugh	Abuse: Det. John McHugh entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Eric Francis	Abuse: Sgt. Eric Francis entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 Steve Lafortune	Abuse: Det. Steve LaFortune entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On January 19, 2015, members of the tactical response unit of Narcotics Borough Brooklyn North observed a narcotics transaction between § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b). At 4:40 p.m., § 87(2)(b) was arrested at the corner of Lewis Avenue and Hart Street. At 4:45 p.m., officers knocked on § 87(2)(b) to arrest § 87(2)(b). When § 87(2)(b) opened the door, officers entered the residence without consent to arrest § 87(2)(b) (**Allegation A**). Three officers went upstairs, where they spoke with § 87(2)(b)'s mother § 87(2)(b) and brother, § 87(2)(b). Det. McHugh and Sgt. Eric Francis recalled § 87(2)(b) had requested officers retrieve sneakers from his bedroom. Prior to entering § 87(2)(b)'s bedroom, Det. McHugh observed loose marijuana in plain view on a TV dinner table. Sgt. Francis observed loose marijuana on a coffee table, money stacked up like books, a firearm on the shelf, and somewhere he could not recall, crack-cocaine. Once officers secured the location, Det. McHugh and Det. Steve LaFortune left to obtain a search warrant for the premises (search warrant encl. 13H-I). Officers searched § 87(2)(b)'s bedroom from 7:45 p.m. to 8:20 p.m., and seized a firearm, marijuana, crack cocaine, drug paraphernalia and US currency as arrest evidence (property vouchers encl. 11G-CC).

§ 87(2)(b) called the CCRB shortly after the incident but, as she initially could not come in to be interviewed, did not file the complaint until March 18, 2015 (complaint encl. 4A-B; CCRB statements encl. 5A-7E; arrest/complaint reports encl. 11A-E).

Mediation, Civil and Criminal Conviction Histories

- This case was ineligible for mediation as § 87(2)(b) was arrested.
- On April 15, 2015, a request to determine if a Notice of Claim was filed was submitted; confirmation from the Office of the Comptroller will be forwarded upon receipt (encl. 17F).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (encl. 14E-T).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- § 87(2)(b) and § 87(2)(b) have not filed any complaints with the CCRB (encl. 3B-C).
- Det. John McHugh has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (encl. 2A).
- Sgt. Eric Francis has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (encl. 2B).
- Det. Steve LaFortune has been a member of the service for 13 years and there is 1 substantiated CCRB allegations against him (encl. 2C).
 - In case 201013036, an allegation that Det. LaFortune conducted a vehicle stop was substantiated; charges were recommended and instructions imposed.

Finding and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) initially noted that three officers entered her home. § 87(2)(g)

§ 87(2)(g)

Recommendations

- **Allegation A – Abuse of Authority: Det. John McHugh entered and searched** § 87(2)(b)
- **Allegation B – Abuse of Authority: Sgt. Eric Francis entered and searched** § 87(2)(b)
- **Allegation C – Abuse of Authority: Det. Steve LaFortune entered and** § 87(2)(b)

It is undisputed that § 87(2)(b) was in the residence and that the officers were informed he had participated in a drug transaction with § 87(2)(b), five minutes prior to the officers entry. It is undisputed that Det. John McHugh, Sgt. Eric Francis, and Det. Steve LaFortune entered § 87(2)(b) with the intention to arrest an individual matching the description they were provided and that the purpose of the entry was to effect his arrest. However, Det. LaFortune explained that officers did not know if § 87(2)(b) or § 87(2)(b) was the perpetrator at the time they handcuffed § 87(2)(b) § 87(2)(e)

§ 87(2)(e) Det. McHugh and Sgt. Francis stated they proceeded to go upstairs and into § 87(2)(b)'s bedroom to obtain sneakers he had requested. § 87(2)(b) testified that he had been fully dressed (with shoes on) as he had been prepared to go outside when he answered the door and officers immediately crossed the threshold to arrest him while another officer went directly upstairs. § 87(2)(b) denied providing the officers with any permission to enter his home or to go upstairs. § 87(2)(b) denied ever being asked by officers where her son's bedroom was, or that any officer asked her permission to obtain his sneakers from his bedroom.

Only after officers had cross the threshold into § 87(2)(b), gone upstairs, into § 87(2)(b) and § 87(2)(b)'s bedroom, did officers go to obtain a search warrant to seize the aforementioned items and conduct a further search of § 87(2)(b)'s bedroom.

The courts have established that warrantless entries into private homes are presumed unconstitutional. Exceptions to this rule include consent, hot pursuit, exigent circumstances, as established in People v. McBride, 14 N.Y.3d 440 (2010), and an emergency situation, as established in People v. Dallas, 8 N.Y.3d 890 (2007). In regards to emergency circumstances, courts utilize a three-part test: “(1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; (2) The search must not be primarily motivated by intent to arrest and seize evidence; (3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.” Dallas, at 891 (encl. 1H-I). In regards to the exigent circumstances exception, the courts utilize a six-part test: “(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause...to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry.” McBride, at 446 (encl. 1A-G).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Pod: 3

Investigator: _____ Rebecca Ho 06/02/2015
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____

Title/Signature	Print	Date
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Reviewer: _____
 Title/Signature Print Date